

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

-VS-

DECISION and ORDER

10-CR-6248 CJS

CARL WHITE

Defendant.

This case was referred by order of the undersigned, dated December 14, 2010, to Magistrate Judge Marian W. Payson, pursuant to 28 U.S.C. § 636(b)(1)(A)-(B). Defendant filed an omnibus pretrial motion seeking, *inter alia*, an order dismissing the one count indictment as duplicitous. On April 14, 2011, Magistrate Judge Payson filed a Report and Recommendation ("R&R") (#23) recommending that the Court deny defendant's motion to dismiss the indictment as duplicitous. Defendant timely filed objections (# 24) to the R&R on April 28, 2011.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the R&R to which objections have been made. Upon a *de novo* review of the R&R and after considering the defendant's objections, the Court accepts the proposed findings and recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Payson's R&R (#23), the defendant's motion (#16) to dismiss the indictment as duplicitous is denied.

IT IS SO ORDERED.

Dated: May 2, 2011
Rochester, New York

ENTER:

/s/ Charles J. Siragusa

CHARLES J. SIRAGUSA
United States District Judge